

PLANNING COMMISSION REPORT



MEETING DATE: October 26, 2005

ITEM NO. _____

GOAL: Coordinate Planning to Balance Infrastructure

Subject **Miller Property - 9-AB-2005**

Request Request to consider the following:

1. Abandon 3 feet of Government Land Office (GLO) easement along the western property line, adjacent to Miller Road;
2. Abandon 33 feet of Government Land Office (GLO) easement along the northern property line, adjacent to another R1-70 zoned parcel of land; and
3. Abandon 46 feet of City of Scottsdale right of way in the northeast portion of the site, which is currently dedicated as a “bulb” or cul-de-sac turnaround.

Related Policies, References:

General Plan, Master Circulation Plan, Trails Plan

Owner New Horizons Villas
480-948-8477

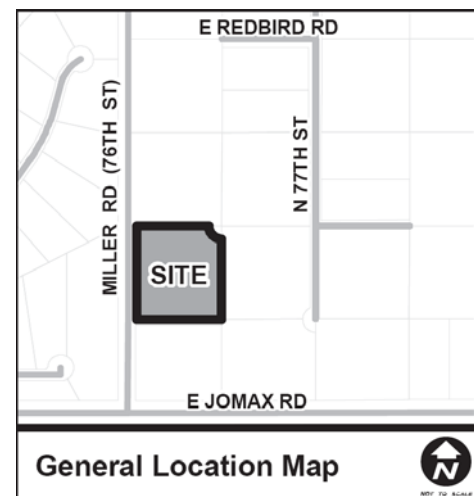
Applicant Contact Ryan Cotter
Stevens Custom
480-948-8477

Location 26789 N Miller Rd

Background

Background.

The subject GLO easements were dedicated in 1959. The subject City of Scottsdale Right of Way was dedicated in 1995.



General Land Office Patent Easements (general information).

- Within the City of Scottsdale there are General Land Office (GLO) lots or parcels of various sizes created by the Federal Small Tract Act. This act was passed in 1938 and repealed in 1976.
- Most GLO lots were patented with 33 feet (or sometimes 50 feet) roadway and public utility easements typically “as near as practicable to the exterior boundaries”.
- The city has viewed these patent roadway and utility easements as assured access at least until a local circulation plan is established.
- As GLO lots come in for development (i.e. lot splits, subdivisions or requesting building permits) staff requires city right-of-way dedications per our circulation plans. The city’s transportation plan establishes a street system to replace the grid pattern created by the GLO easements.

- Any patent easements in excess of the current requirements to the circulation plans (including trails), roadway standards, and not required to insure access to any other lot, may be requested to be abandoned.
- On 1981, City Ordinance 1386 was adopted delegating the authority for the release of GLO easements to the Engineering Services Director.
- On March 2, 1999, the City Council repealed Ordinance 1386 and adopted Ordinance 3219 which requires the abandonment of the GLO patent roadway easements to go through the same public hearing process currently used for all right-of-ways, alleys, and roadway easements. The City Attorney's office has concluded that this process for consideration of GLO roadway abandonment satisfies legal requirements.

The subject GLO roadway easements were reserved on the original patent deed to assure legal access. Currently the 30 feet of the western GLO easement is improved as a public street (Miller Road). None of the northern GLO easement or City of Scottsdale right of way is improved with public improvements. There is an existing block wall right at the northerly GLO easement line.

Zoning.

The site is zoned R1-70 ESL FO. The R1-70 ESL FO zoning district(s) allow for single-family residential housing, with a minimum lot size of 70,000 square feet, subject to additional environmental and foothills restrictions.

Context.

This parcel is located northeast of the intersection of Jomax and Miller Roads. Adjacent Zoning:

- North: R1-70 ESL FO
- South: a mixture of R1-70 ESL FO and R1-43 ESL FO
- East: R1-70 ESL FO
- West: a mixture of R1-70 ESL FO and R1-43 ESL FO

All districts are essentially the same (Allowing residential as the primary use), with the R1-70 ESL FO requiring a minimum 70,000 square foot parcel, and the R1-43 ESL FO zoning requiring a minimum of 43,000 square foot parcel. Both zoning designations also require the same environmental and foothills considerations in the development standards.

**Applicant's
Proposal****Goal/Purpose of Request.**

This request is to:

- Abandon 3 feet of Government Land Office (GLO) easement along the western property line, adjacent to Miller Road;
- Abandon 33 feet of Government Land Office (GLO) easement along the northern property line, adjacent to another R1-70 zoned parcel of land; and
- Abandon 46 feet of City of Scottsdale right of way in the northeast portion of the site, which is currently dedicated as a "bulb" or cul-de-sac turnaround.

The applicant is requesting the abandonments for two reasons. Firstly, the northerly GLO easement creates a problem for the use of their property as a single family residence because in the Foothills Overlay zone, setbacks are

measured from the GLO easement line, and not the property line; the existing single family structure is located in the setback area (Approximately 11 feet from the GLO easement line & 44 feet from the property line). Under separate provisions of the Zoning Ordinance, no improvements can be made to the property until the entire site is brought into compliance. Secondly, the western GLO easement is located principally in the already improved right of way (Miller Road), except for three (3) feet, and the previously dedicated City of Scottsdale right of way in the northeast corner of the property are no longer needed to provide access to the subject property.

Key Issues.***CITY IMPACT:***

- Maintains consistency with city street standards as approved by the City's Transportation Department; regarding the 3 foot abandonment to the west. The City already has 30 feet of dedicated right of way in this location, and the Transportation Department has indicated that the street only needs 30 feet from the centerline. As such, the additional 3 feet is not necessary. Further, the Trails Plan shows the western portion of the right of way as the area which will be utilized for the ultimate trail connection, and the east side shows no such designation.
- The northerly GLO easement is not necessary for either Transportation access or as a portion of the Trails Plan, as reviewed by the transportation or trails planning staff.
- The ¼ cul-de-sac at the northeast portion of the site was apparently dedicated in the past as potential access to the subject property from 77th street (if a roadway were ever built there). Miller Road is currently developed which provides access to the subject site, and if ever developed the 77th Street alignment would serve as access to the adjacent properties to the east. As such, the Transportation Department has concluded that this ¼ cul-de-sac is not necessary.

NEIGHBORHOOD IMPACT:

- There would not be any significant impact to the neighbors with this application. The Trails Plan is completely intact along Miller Road; the applicant is not representing any attempt to subdivide the property (Nor would this request have any impact on that potential), and access is maintained consistent with the Transportation Department's master circulation plan.

PROPERTY OWNER IMPACT:

- The property owner has been notified by the City that the subject house and patio structure are non-conforming due to their location in a setback area; which in the Foothills Overlay zoning district is measured from the GLO easement line, and not the property line.
- This non-conforming status places the property owner in a precarious position, as the City's Zoning Ordinance requires that any non-conforming property be brought into compliance with all development standards prior to any improvement being approved by the City. As the property currently resides, no improvements to the house or ancillary structures can be approved unless the GLO easement is abandoned, or the house is moved to be in compliance with the setback provisions of the R1-70 ESL FO zoning.

- Approval of this request would allow the property owner to expand their existing single-family residence.

Community Impact.

The principal reason the City generally pays close attention to abandonment requests of GLO and other City easements is to make sure the proposed abandonment will not in any way be detrimental to the City's long term buildout plans in terms of transportation access, and trails / open space planning or that access is not being denied to adjacent property. Staff has analyzed this request in that fashion, and finds that the City goals are still being met with the proposed abandonment.

Impact Analysis

Departmental Responses.

City Department/Division participants concur with this abandonment request. See Department Issues Checklist (Attachment #1).

Open space, scenic corridors.

There are no open space or scenic corridor issues associated with this case. The parcel is located along Miller Road, and backs to other residential parcels on three sides.

Policy Implications.

Generally, the City of Scottsdale is concerned about the loss of GLO and City of Scottsdale easements for a myriad of reasons including: Transportation access, trails, future open space, etc. The abandonment of the subject easements will not affect the ability of the City to achieve those goals for the reasons listed above.

Community Involvement.

The applicant completed the City of Scottsdale required Citizen Participation notification to property owners within 750 feet of the proposed abandonment. Staff has received a few phone calls, mostly inquisitive neighbors with questions about what an abandonment is. There has not been any written material submitted, either in favor or against the subject request.

Staff
Recommendation

Recommended Approach:

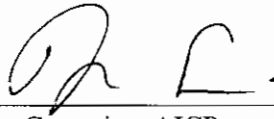
Staff recommends approval.

Responsible
Dept(s)
Staff Contact(s)

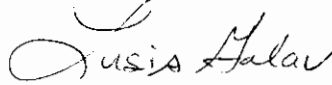
Planning and Development Services Department

Mac Cummins, AICP
Senior Planner
480-312-7059
E-mail: mcummins@ScottsdaleAZ.gov

Approved By



Mac Cummins, AICP
Senior Planner
Report Author



Lusia Galav, AICP
Current Planning Director

Attachments

1. Departmental Checklist
2. Context Aerial
3. Detail Aerial
4. Right-of-Way and Easements
5. Area Trails Plan
6. City Notification Map

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Department Issues Checklist

Transportation

☒ **Support**

The Miller Road alignment has been dedicated in full. The ½ street has been fully improved with 30 feet of right of way adjacent to the subject property. The northern 33 foot GLO easement being abandoned is unnecessary for access.

Trails

☒ **Support**

The trails plan shows the trail connection on the western side of the right of way, and not adjacent to the subject parcel.

Adjacent Property Owner Notification

☐ **No comments received from adjacent property owners**

The applicant sent out notice to all property owners within 750 feet. Staff has not received any feedback, either positive or negative to this request.

Public Utilities

☒ **Support**

Letters of consent to the abandonment are on file from the affected areas.

Emergency/Municipal Services

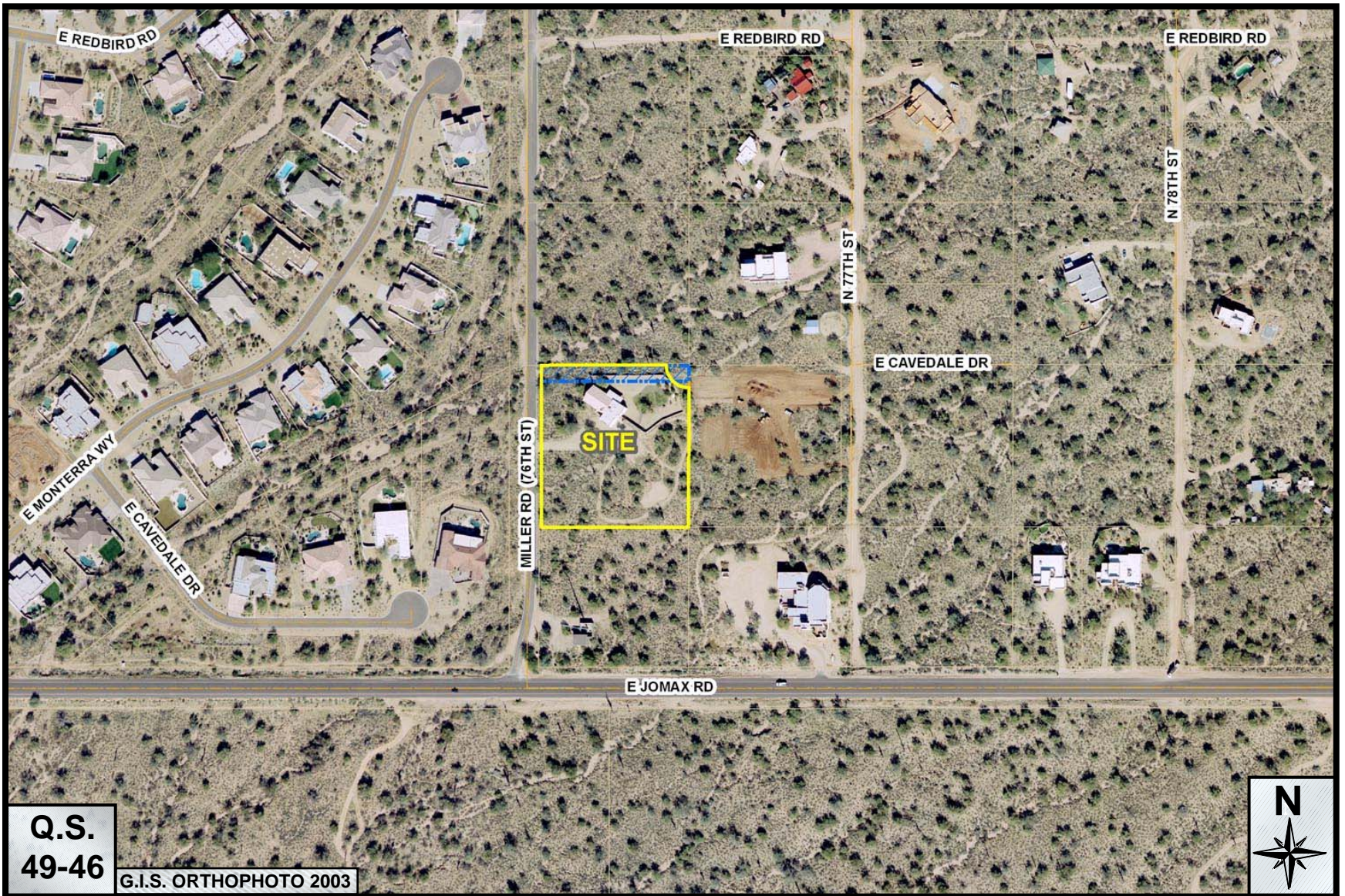
☒ **Support**

Emergency service vehicle access is being provided along Miller Road, which is fully improved.

Drainage

☒ **Support**

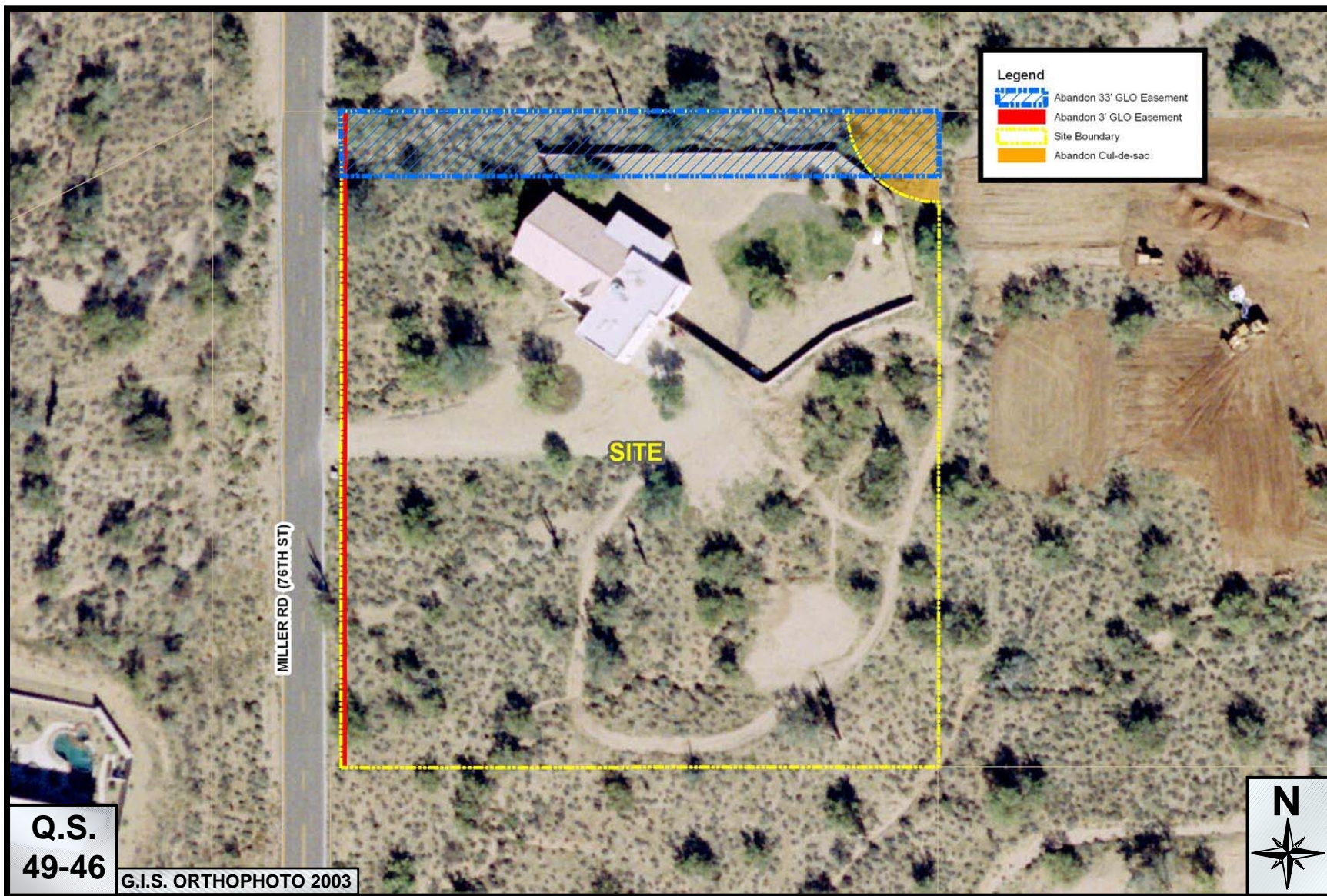
The subject easements are not necessary for drainage in the area.



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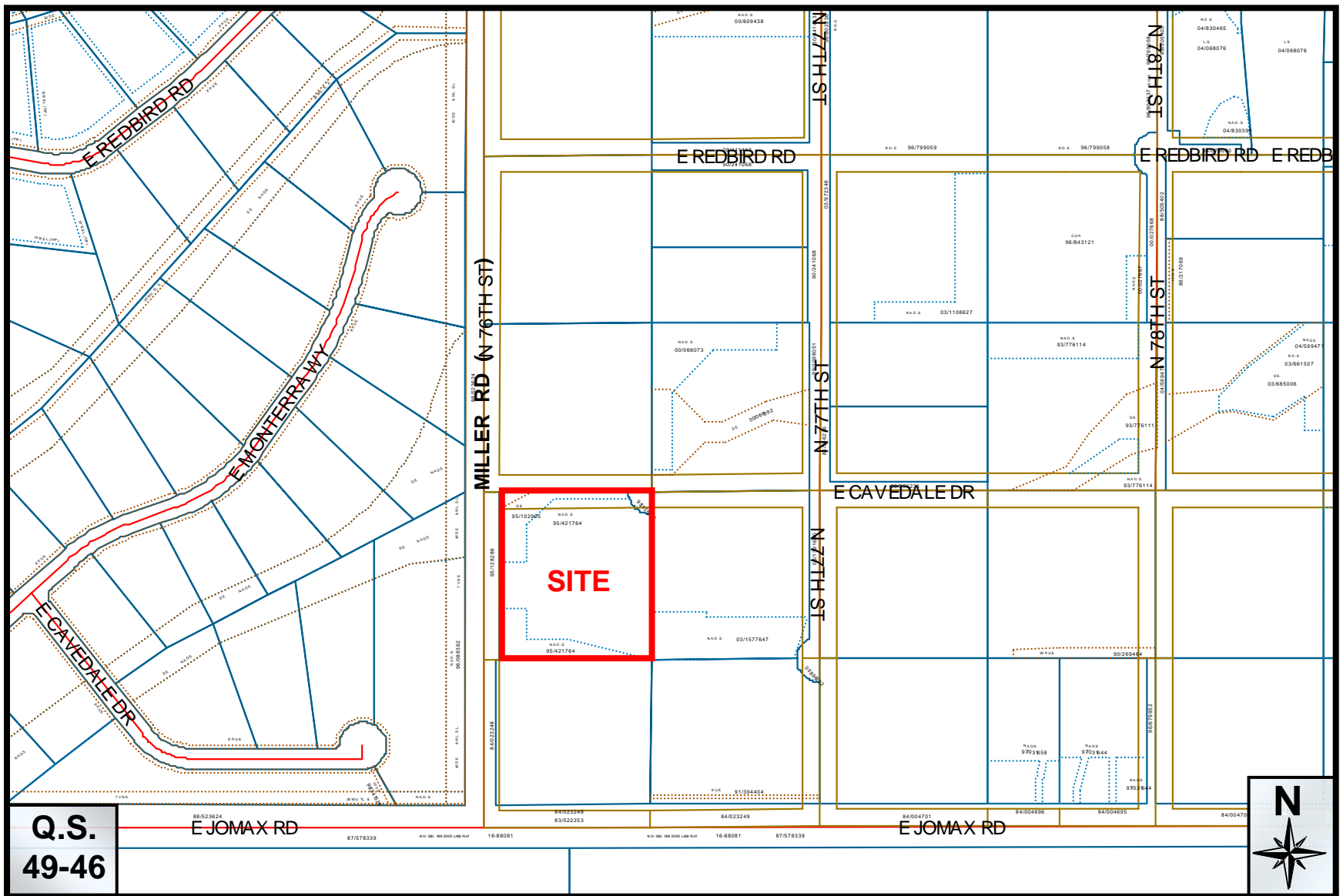
ATTACHMENT #2



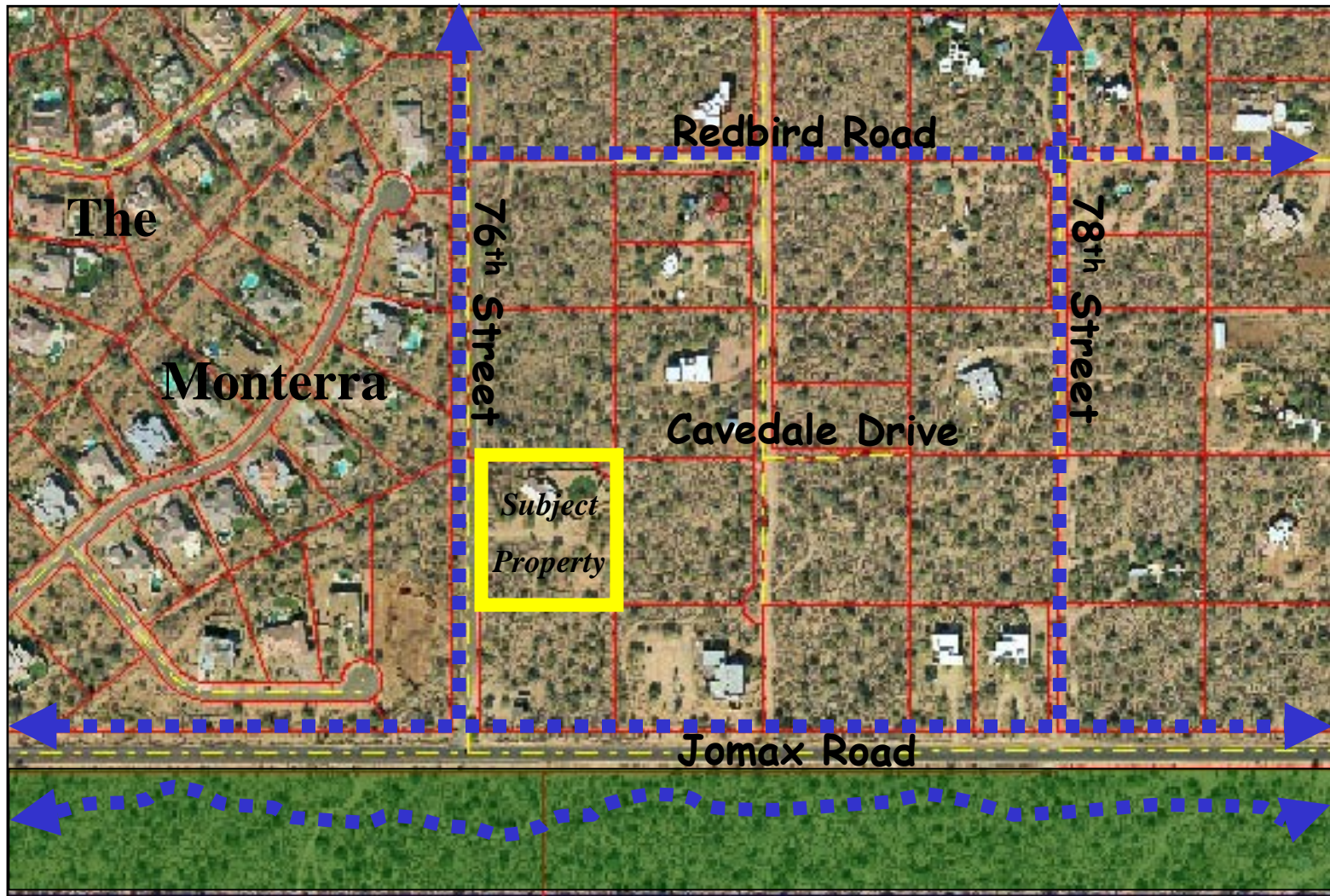
Miller Property

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ATTACHMENT #3



Trails in the Area of 9-AB-2005



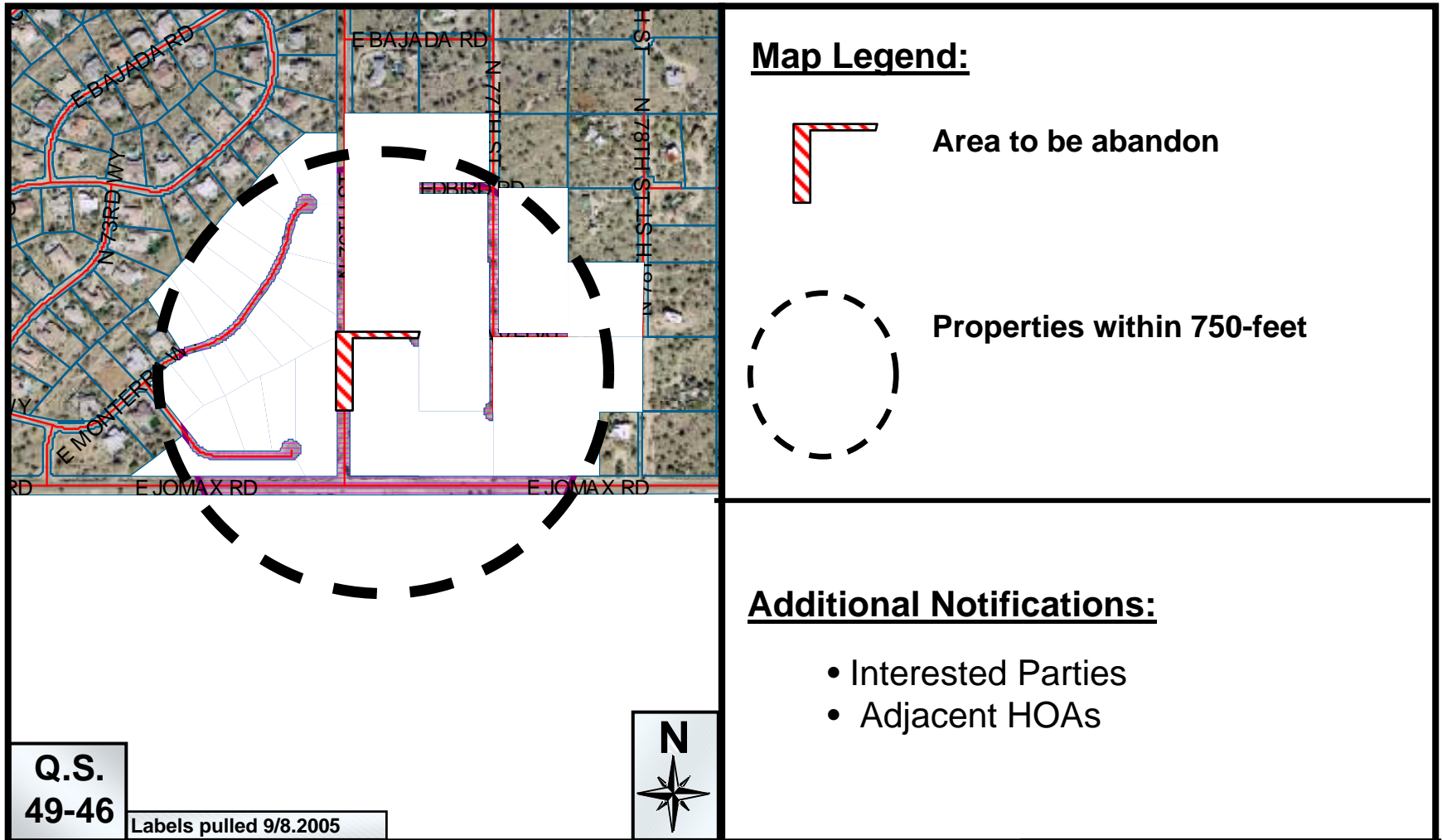
- ■ ■ ■ Master Planned Trails
- Planned McDowell Sonoran Preserve

Not
to
Scale



September 2005

City Notifications – Mailing List Selection Map



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ATTACHMENT #6